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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,113	05/24/2001	Jeffrey T. Makoff	POET-400	3042
28584 7590 12/26/2007 STALLMAN & POLLOCK LLP 353 SACRAMENTO STREET SUITE 2200 SAN FRANCISCO, CA 94111			EXAMINER SHERR, CRISTINA O	
			ART UNIT 3621	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/865,113	Applicant(s) MAKOFF ET AL.	
	Examiner Cristina Owen Sherr	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18,29-50 and 58-65 is/are pending in the application.
- 4a) Of the above claim(s) 5-18,29,31037,40-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,29,30,38,39 and 58-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicants' amendment filed October 3, 2007. Claims 1-4, 29-30, 38-39, and 58-65 are currently under examination in this case. Claims 1-18, 29-50, 58-65 are currently pending in this case.

Response to Arguments

2. Applicants' arguments filed October 3, 2007 have been fully considered but they are not persuasive.

3. Applicants argue, with respect to all the claims currently under examination, that there is no motivation to combine the cited references.

4. Examiner respectfully disagrees. As applicants have noted, Walker discloses a system which facilitates contact between customers and experts in different fields. Even though the specific field of digital image editing is not contemplated, it is obvious that any field can be represented in Walker. Note that KSR forecloses the argument that a specific teaching is required for a finding of obviousness. *KSR*, 127 S. Ct. at 1741, 82 USPQ2d at 1396. Acker discloses a system for online remote digital image editing. Obviously the experts in Walker would use precisely such systems in their remote work with customers. Thus, the claims merely recite combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, it would have been obvious to one of ordinary skill in the art to combine Walker and Acker in order to extend Walker to experts in other professions.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 29-30, 38-39, and 58-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 5,862,223) in view of Acker et al (US 6,883,140).

7. Regarding claim 1 –

Walker discloses a method of providing a customer remote access to a group of providers through an agent device with the customer, agent and servicer being linked by a computer network (e.g. abs), said customers requiring a service, (e.g. col 7 ln 5-28).

8. Walker does not specifically deal with editing images, but rather with a need for an expert who can provide a service where the said service requires judgment or analysis. (e.g. col 7 ln 1-5). Walker contemplates choosing an expert to provide a service, based on various criteria (e.g. col 7 ln 5-29). While not contemplating specifically a graphics editor, the process of choosing an editor is fundamentally the same as that of choosing any expert in Walker. In other words, just as one may choose an expert in history or literature, one may choose an expert in editing images. Further Walker discloses transferring the item to be worked on electronically by the customer via a network to the expert who will perform the work, along with instructions as to what

is necessary (e.g. col 7 ln 5-29). Eventually, the end user or buyer gets the completed work back (e.g. col 39 ln 60-65).

9. As noted above, Walker does not specifically deal with editing images, Acker, however, does. See, e.g. abs, col 2 ln 15-40). It would be obvious to one of ordinary skill in the art to combine the disclosures of Walker and Acker, because both deal with getting work done via a network, because generally people whether experts or buyers prefer a wider range of business which would be provided through such a network. Further, the experts in Walker would use precisely such systems in their remote work with customers. Thus, the claims merely recite combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, it would have been obvious to one of ordinary skill in the art to combine Walker and Acker in order to extend Walker to experts in other professions.

10. Regarding claim 2 –

Walker discloses sending instructions as text, e.g. col 7 ln 5-29.

11. Regarding claim 3 –

Acker discloses instructions in the form of graphics e.g. col 6 ln 27-60. As above, it would be obvious to one of ordinary skill in the art to combine the disclosures of Walker and Acker, because both deal with getting work done via a network, because generally people whether experts or buyers prefer a wider range of business which would be provided through such a network.

12. Regarding claim 4 –

Walker discloses making a selection of expert via a bidding process e.g. col 36 ln 59-65.

13. Claims 29-30, 38-39, and 58-65 are rejected under the same criteria as above.

14. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

15. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

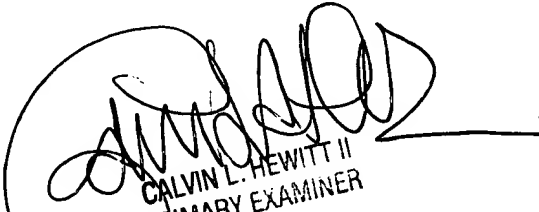
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is

571- 272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cristina Owen Sherr
Patent Examiner, AU 3621


CALVIN L. HEWITT II
PRIMARY EXAMINER